

1 Q. Were there times of day where you were more -- 12:57:16PM

2 you had more energy typically? 12:57:20PM

3 A. Well, it seemed like in general afternoons were 12:57:23PM

4 better, but as I said, the fatigue attacks were 12:57:27PM

5 unpredictable. 12:57:32PM

6 Q. But were mornings consistently problematic for 12:57:36PM

7 you? 12:57:41PM

8 A. Yeah. 12:57:41PM

9 Q. Describe for me what was the problem in the 12:57:42PM

10 morning. Was it, you you wanted to stay in bed or you 12:57:44PM

11 didn't have the energy to get pulled together to get to 12:57:48PM

12 work? 12:57:53PM

13 A. Well, it's as I described to you when I 12:57:53PM

14 described how it felt. It's immobilizing. It's that 12:57:55PM

15 exact feeling that I described to you. 12:57:59PM

16 Q. So, it would be difficulty getting out of bed? 12:58:00PM

17 A. Yeah, honestly, difficult to move, period. I 12:58:03PM

18 mean, it's just -- I mean, I've heard people describe 12:58:07PM

19 having malaria and things like that, and I've never 12:58:12PM

20 experienced it, but it's a very specific sensation that's 12:58:15PM

21 not like being worn out or tired or just weary. And it 12:58:20PM

22 came on -- it came on after one of the videos that I did, 12:58:26PM

23 and I thought it might have been related to that, but I 12:58:30PM

24 could never prove it. This was a video that I'd done in 12:58:34PM

25 the spring of 2009 where I smashed a computer screen with 12:58:37PM

1 Q. During this time period you were coming in to 01:03:57PM
2 work 10 or 11 o'clock; is that typical? 01:04:02PM
3 A. At different times every day, but, yeah, 01:04:06PM
4 typical. 01:04:09PM
5 Q. So, you were provided some flexibility in that 01:04:11PM
6 you were coming in at 10 or 11 o'clock on a regular basis? 01:04:15PM
7 A. Well, they weren't providing it for me so much 01:04:18PM
8 as I was taking it and they were complaining about it and 01:04:22PM
9 refusing to do anything to fix the situation. 01:04:25PM
10 Q. When you asked for a flexible schedule, what 01:04:27PM
11 did Kreamer say? 01:04:30PM
12 A. No. 01:04:30PM
13 Q. But you did it anyway? 01:04:31PM
14 A. I didn't really have a choice. Yes, I did it 01:04:32PM
15 anyway. 01:04:36PM
16 Q. Is there any witness to Kreamer saying no to 01:04:38PM
17 your flexible schedule request that you can't place in 01:04:42PM
18 time? 01:04:46PM
19 A. No, apart from Higgins who would have known 01:04:46PM
20 about it. We didn't typically have a third party in these 01:04:49PM
21 meetings where he would say no, so no. 01:04:52PM
22 Q. Eventually you talked to Higgins about your 01:04:58PM
23 need for a flexible schedule; is that correct? 01:05:01PM
24 A. Yes.
25 Q. Do you remember when that was? 01:05:06PM

1 time we talked, because we talked all the time. That's 01:11:34PM
2 how it works in a newsroom. 01:11:37PM
3 Q. I understand. You've explained that to me. 01:11:39PM
4 But I am entitled to know your specific recollection of 01:11:41PM
5 events that occurred and that's what this deposition is 01:11:44PM
6 about, is my asking you questions so that I can get 01:11:47PM
7 information about your claims. 01:11:50PM
8 A. I understand that. I'm just trying to be as 01:11:51PM
9 clear as possible. 01:11:54PM
10 Q. Thank you. I appreciate that. 01:11:54PM
11 All right. So, let's step back for a second 01:11:56PM
12 and talk about, I think it might be helpful if we identify 01:12:05PM
13 what accommodations -- what specific accommodations you 01:12:09PM
14 requested throughout this time period. So, from the time 01:12:13PM
15 that you realized that you were sick, whether before you 01:12:15PM
16 were diagnosed or not, through the end of your employment 01:12:21PM
17 at The Seattle Times Company, can you identify for me what 01:12:24PM
18 accommodations you requested from The Seattle Times. 01:12:28PM
19 A. Sure, we've already been through this to some 01:12:31PM
20 degree, but I asked for a schedule with flexibility and 01:12:34PM
21 the possibility of sometimes working at home. I actually 01:12:37PM
22 didn't specify any specific hours, despite what the 01:12:40PM
23 managers and apparently the union people tried to assert. 01:12:46PM
24 Like I never requested specifically an 11 to 7 a.m. shift 01:12:50PM
25 or anything like that. All I requested was please give me 01:12:54PM

1 a flexible schedule to accommodate fatigue, because it's 01:12:57PM
2 unpredictable, I don't know how long each spell will last. 01:13:01PM
3 I just need the flexibility to deal with it. Happy to put 01:13:05PM
4 in an eight-hour workday, work until the task is finished, 01:13:10PM
5 but I just need some flexibility as opposed to none. 01:13:14PM
6 Q. So, you asked for a schedule flexibility. You 01:13:17PM
7 also asked for working at home. Was there anything else 01:13:21PM
8 you asked for? 01:13:24PM
9 A. Don't think so. 01:13:25PM
10 Q. I mean, you did take a medical leave; is that 01:13:26PM
11 correct? 01:13:29PM
12 A. Yes. 01:13:29PM
13 Q. That was something that you requested? 01:13:29PM
14 A. Obviously. 01:13:32PM
15 Q. And your doctor, Dr. Dompe, also asked for or 01:13:43PM
16 communicated that you needed a certain number of breaks 01:13:52PM
17 during an eight-hour shift; is that correct? 01:13:56PM
18 A. That's not a yes-or-no answer, if you'll allow 01:13:57PM
19 me to answer that in full. 01:14:01PM
20 Q. Well, just hold on a second. As part of the 01:14:02PM
21 communication with The Seattle Times, Dr. Dompe identified 01:14:06PM
22 that you needed three 15-minute breaks taken as needed 01:14:09PM
23 during an eight-hour shift, correct? 01:14:13PM
24 A. There's the potential for this to be 01:14:15PM
25 misleading. 01:14:17PM

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1 Q. We're going to look at that in a minute. 01:20:31PM

2 Did you ever apply for intermittent FMLA in 01:20:35PM

3 response to this or any other communication from The 01:20:46PM

4 Seattle Times? 01:20:48PM

5 A. I told Matt Kreamer that for a chronic ongoing 01:20:48PM

6 condition the intermittent leave was totally unfeasible 01:20:53PM

7 and we needed to find a more reasonable way to deal with 01:20:57PM

8 the problem that wasn't reinventing the wheel every single 01:21:02PM

9 day. 01:21:06PM

10 Q. What was unfeasible about the intermittent 01:21:06PM

11 leave in your view? 01:21:06PM

12 A. The condition was chronic, it was ongoing, it 01:21:06PM

13 was all the time. So, let me see. "You'll need to fill 01:21:11PM

14 out what's called an Intermittent Family Medical Leave 01:21:13PM

15 Form. That will temporarily allow you to be paid for 40 01:21:17PM

16 hours a week even if you are not working that many hours." 01:21:22PM

17 The problem with this was that it would have 01:21:26PM

18 required me, say, the way they explained it, to call in 01:21:30PM

19 every morning if I didn't think I was going to make it 01:21:34PM

20 there by 9 o'clock instead of dealing with the problem in, 01:21:37PM

21 you know, a longer term basis that actually worked, and 01:21:44PM

22 the issue was never my not working 40 hours a week. If I 01:21:48PM

23 got there late, I stayed late. So, this didn't go to 01:21:53PM

24 solve the problem at all. And I told Kreamer specifically 01:21:57PM

25 what I just said to you. And presumably he -- I mean, I 01:21:59PM

1 went through the proper channels, so presumably he 01:22:04PM

2 communicated that to Higgins. 01:22:08PM

3 Q. So, I believe the answer, then, to the question 01:22:09PM

4 that I asked is that no, you did not ever apply for 01:22:11PM

5 intermittent leave; is that correct? 01:22:14PM

6 A. No, for the reasons I've stated. 01:22:16PM

7 Q. So, you didn't apply for intermittent leave and 01:22:18PM

8 the concern that you had was that it wasn't a workable 01:22:22PM

9 solution long term. Is that a fair assessment? 01:22:25PM

10 A. It wasn't a workable solution at all and it 01:22:28PM

11 didn't address the problem. 01:22:31PM

12 Q. The problem that you had with it was that you 01:22:32PM

13 would be required to call in on a regular basis if you 01:22:38PM

14 were going to not be there for your scheduled shift on 01:22:42PM

15 time? 01:22:44PM

16 A. Yeah, as I said, each day, if I didn't think I 01:22:44PM

17 was going to make it there, I would call in. Whereas for 01:22:47PM

18 a chronic problem, it made sense not to do that as opposed 01:22:51PM

19 to fixing the problem. 01:22:56PM

20 Q. So, what was the problem with calling in? Is 01:23:00PM

21 it just too burdensome or a hassle? I'm not sure I 01:23:02PM

22 understand why that was an impediment to your using 01:23:06PM

23 intermittent leave. 01:23:10PM

24 A. It was foolish. That was the impediment. The 01:23:11PM

25 impediment was that for a condition that was ongoing that 01:23:14PM

1 I was suffering long term that I could predict and the 01:23:17PM
2 doctor could predict was going to be happening a day or a 01:23:20PM
3 month or longer, and as it has turned out, years from that 01:23:24PM
4 time, to deal with it on a day-by-day basis made 01:23:27PM
5 absolutely no rational sense. 01:23:31PM

6 Q. Okay. I understand that. So, was your concern 01:23:34PM
7 that this would require you to be calling your manager 01:23:37PM
8 more often than you wanted to to report that you weren't 01:23:43PM
9 going to be able to show up to work? 01:23:47PM

10 A. I'm not sure what you mean. 01:23:49PM

11 Q. I'm trying to understand why it was such a 01:23:51PM
12 barrier to you to use the intermittent leave because it 01:23:53PM
13 required you to call your manager and report whether you 01:23:58PM
14 were going to be there or not? 01:24:01PM

15 A. The barrier to me was that it was not a 01:24:02PM
16 practical solution to the problem and it seemed designed 01:24:04PM
17 to simply embarrass me instead of deal with the problem. 01:24:07PM

18 Q. In what regard is intermittent FMLA leave 01:24:11PM
19 intended to embarrass you, in your view? 01:24:14PM

20 A. Well, to run through this again -- you asked me 01:24:17PM
21 a question. I'm going to answer it. 01:24:19PM

22 Q. I'm trying to understand. Go ahead and answer. 01:24:22PM
23 Go ahead and answer. 01:24:25PM

24 A. It was something that wasn't going away. It 01:24:28PM
25 wasn't going to be different one day than it was the next 01:24:31PM

1 in terms of the CFS not being present. The only variable 01:24:34PM
2 about the CFS was that the attacks hit me at different 01:24:39PM
3 times and I didn't know what their duration was going to 01:24:43PM
4 be, but I knew it was going to be there from one day to 01:24:46PM
5 the next and mornings were always particularly difficult. 01:24:49PM
6 So, to start from scratch every morning and inform them 01:24:51PM
7 that I might not be in there precisely at 9 o'clock wasn't 01:24:58PM
8 addressing the problem. And again, as I said, the filling 01:25:02PM
9 out a 40-hour workweek wasn't the issue. The issue was 01:25:06PM
10 some flexibility. 01:25:11PM
11 Q. Okay. What specific kind of flexibility did 01:25:13PM
12 you want? 01:25:17PM
13 A. Well, they never let the conversation get far 01:25:17PM
14 enough even to explore it. 01:25:20PM
15 Q. I'm asking you what you wanted. 01:25:22PM
16 A. If I could have had anything I want and the 01:25:25PM
17 schedule genie would grant a wish? What are you asking 01:25:28PM
18 me? 01:25:31PM
19 Q. Okay. Let me rephrase that. When you talked 01:25:32PM
20 to anyone at The Seattle Times about flexibility, what 01:25:34PM
21 type of flexibility were you requesting? Was it that you 01:25:37PM
22 could come in at whatever time suited you in the morning 01:25:41PM
23 and leave at the end of the day whenever you were done 01:25:44PM
24 with your work and you filled your eight-hour shift or was 01:25:47PM
25 it something different? 01:25:50PM

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1 break or you felt up to working; is that fair? 01:30:12PM

2 A. That would have been ideal, but the discussions 01:30:15PM

3 with The Times managers never reached that point because 01:30:17PM

4 they simply declined to give me any flexibility or discuss 01:30:20PM

5 it. 01:30:26PM

6 Q. Did Dr. Dompe ever tell you that you needed 01:30:31PM

7 flexibility in your schedule to come and go as you pleased 01:30:34PM

8 from your job? Did he ever communicate that to you in 01:30:39PM

9 your treatments? 01:30:44PM

10 A. In those exact words? 01:30:44PM

11 Q. No, or something to that effect. 01:30:46PM

12 A. We both agreed -- yes, it was his advice that I 01:30:51PM

13 have a more flexible schedule. 01:30:54PM

14 Q. Okay. And he told you that when he said a more 01:30:58PM

15 flexible schedule that that was flexibility to come and go 01:31:01PM

16 as needed from work, to show up whenever you were feeling 01:31:05PM

17 up to it? 01:31:09PM

18 A. I don't recall his exact words now. 01:31:09PM

19 Q. Something to that effect? 01:31:12PM

20 A. Sounds about right. 01:31:14PM

21 Q. So, after you provided this doctor note, human 01:31:17PM

22 resources, Nancy Hawman, provided you with some 01:31:20PM

23 intermittent leave forms; is that correct? Do you 01:31:24PM

24 remember that? 01:31:29PM

25 A. Was this about the kind of intermittent leave 01:31:29PM

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1 needs and accommodate your medical condition would have 01:34:10PM
2 been the notes that your doctor sent to The Times; is that 01:34:14PM
3 correct? 01:34:17PM

4 A. I think so, yes. 01:34:17PM

5 MR. LINN: Do you need a break soon? 01:34:23PM

6 THE WITNESS: Maybe. Let's see what time it 01:34:26PM
7 is. It couldn't hurt. 01:34:28PM

8 MS. SULLIVAN WEISS: Okay. Do you need a break 01:34:30PM
9 right now? 01:34:33PM

10 MR. LINN: Not this minute. Maybe at a 01:34:34PM
11 convenient time in the next 10 minutes or so. 01:34:36PM

12 THE WITNESS: Sure. 01:34:38PM

13 Q. During the time after you communicated to Mr. 01:34:49PM
14 Higgins about your need for flexibility in February and 01:34:53PM
15 into March, April, May, I think you testified that you 01:34:58PM
16 were continuing to come in at 10 or 11 o'clock typically; 01:35:02PM
17 is that correct? 01:35:07PM

18 A. Roughly. 01:35:08PM

19 Q. When you would show up at 10 or 11, were you 01:35:10PM
20 contacting Matt Kreamer or Mark Higgins to let either of 01:35:13PM
21 them know that you would not be at work by 9 a.m.? 01:35:17PM

22 A. Oh, no. 01:35:21PM

23 Q. So, you weren't keeping them apprised of what 01:35:22PM
24 your schedule was if you were not going to be in the 01:35:25PM
25 office at 9 a.m.? 01:35:28PM

1 A. No. Kreamer always knew that he could reach me 01:35:29PM
2 at any time, and I communicated that to him. He always 01:35:32PM
3 knew when I got there. Kreamer could -- I wouldn't have 01:35:35PM
4 been in touch with Higgins in any case because that would 01:35:38PM
5 have been jumping levels. It would have been typical 01:35:41PM
6 always to go through Kreamer. 01:35:45PM
7 And quite frequently Kreamer texted me before I 01:35:51PM
8 had left home, like if there was something like it would 01:35:54PM
9 have been better for me to go straight to rather than 01:35:59PM
10 stopping at the office first. So Kreamer was in touch 01:36:04PM
11 with me whenever he needed to be and he knew how to reach 01:36:08PM
12 me at all hours. 01:36:11PM
13 Q. So, do you recall having a conversation with 01:36:12PM
14 Mark Higgins on or about April 16, 2010, along with Matt 01:36:15PM
15 Kreamer, the three of you sitting down and talking about 01:36:21PM
16 your schedule and your chronic fatigue? 01:36:25PM
17 A. This might have been the one where Higgins 01:36:27PM
18 lectured me on how he doesn't like mornings either. 01:36:30PM
19 Q. So, you do recall a conversation with you and 01:36:33PM
20 Matt Kreamer about your schedule and your chronic fatigue? 01:36:37PM
21 A. I think so. 01:36:38PM
22 Q. What do you remember about that conversation 01:36:38PM
23 other than what you've described to me? 01:36:40PM
24 A. That's the part that stands out the most, 01:36:40PM
25 certainly. 01:36:43PM

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1 Q. You don't remember anything else about that 01:36:43PM
2 conversation? 01:36:45PM

3 A. Perhaps you can refresh my memory. 01:36:46PM

4 Q. Okay. Do you remember Mark telling you that as 01:36:49PM
5 a general assignment reporter, they need you at the office 01:36:56PM
6 at the start of the shift? 01:37:01PM

7 A. That sounds like something he would have said. 01:37:03PM

8 Q. Do you remember him saying that if you were not 01:37:07PM
9 going to be able to start at the beginning of the shift at 01:37:10PM
10 9 a.m., that you would need to apply for intermittent 01:37:13PM
11 leave given your condition? 01:37:16PM

12 A. Yeah, I think we've already been through that, 01:37:17PM
13 right? 01:37:19PM

14 Q. I'm asking about this particular conversation. 01:37:20PM
15 Do you remember him talking to you about that? 01:37:23PM

16 A. This was probably another one of the times when 01:37:25PM
17 I told him that wasn't a feasible solution to the problem, 01:37:28PM
18 so yes. 01:37:31PM

19 Q. Do you remember talking to Mark about how you 01:37:33PM
20 wanted to basically have the same schedule you had when 01:37:37PM
21 you were in features where you could come and go as your 01:37:40PM
22 schedule was largely dictated by whatever you needed to do 01:37:43PM
23 that day? 01:37:48PM

24 A. I'm sure that was something that we discussed 01:37:48PM
25 in that, for instance, people in the features department 01:37:51PM

1 always were on top of their beats, knew what they were 01:37:57PM
2 required to do, knew what their deadlines were, and so 01:37:59PM
3 when they physically happened to be within eyesight of a 01:38:03PM
4 given manager was irrelevant because they all knew what 01:38:08PM
5 they were supposed to be doing and got it done, and never 01:38:11PM
6 had a problem. And I certainly never had a problem with 01:38:13PM
7 that. Never missed a deadline. Never had a problem. 01:38:16PM
8 Q. Do you remember Mark explaining to you that 01:38:19PM
9 features is different than the way that the Metro desk 01:38:23PM
10 works, do you remember him talking to you about that? 01:38:26PM
11 A. Yeah, I remember his condescension in talking 01:38:28PM
12 to me about that. 01:38:31PM
13 Q. What do you remember him saying about how the 01:38:32PM
14 Metro desk works as compared to your experience on the 01:38:34PM
15 features desk? 01:38:38PM
16 A. I don't recall exactly how he said everything, 01:38:39PM
17 if that's what you're asking, but this was when our 01:38:42PM
18 conversations began to go around in circles. I was asking 01:38:46PM
19 for help with some flexibility, and he began to repeat 01:38:49PM
20 this stuff and the conversation just degenerated with him 01:38:53PM
21 just repeating this stuff. I understood that he clearly 01:38:56PM
22 wasn't going to consider any flexibility or any help for 01:39:00PM
23 me. His answer to everything was, "You need to be here at 01:39:04PM
24 9. No flexibility." 01:39:08PM
25 Q. Although he did tell you that you could take 01:39:13PM

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1 intermittent leave if you needed that flexibility, 01:39:16PM

2 correct? 01:39:18PM

3 A. Yeah, we've already been through that. I mean, 01:39:18PM

4 I've given you the most complete answer I can to the 01:39:20PM

5 intermittent leave issue. 01:39:23PM

6 Q. I'm just trying to understand when you say he 01:39:24PM

7 said no flexibility, that he was willing to accommodate 01:39:26PM

8 your intermittent FMLA leave? 01:39:30PM

9 A. I don't know how much more clearly I can put it 01:39:33PM

10 that that was at best a very problematic temporary way to 01:39:37PM

11 address an ongoing problem that really reeked of 01:39:44PM

12 harassment to me because I told him that it was an ongoing 01:39:47PM

13 problem, and to have to start fresh to address it every 01:39:51PM

14 single day of something that I was living with chronically 01:39:54PM

15 was preposterous, and I communicated that to him clearly. 01:39:58PM

16 Q. Did you and Mark in that conversation talk 01:40:07PM

17 about the type of work that you were doing on the Metro 01:40:10PM

18 desk and whether you could change the type of work you 01:40:12PM

19 were doing and do something more like the features work 01:40:15PM

20 you were doing before you were moved? 01:40:18PM

21 A. I don't really specifically recall that right 01:40:19PM

22 now. I mean, it's possible that we could have because I 01:40:24PM

23 was always pitching work. I mean, that's what you do. 01:40:27PM

24 You pitch stories, you pitch work, you pitch beats. It's 01:40:31PM

25 just part of the life at the newspaper. 01:40:35PM